S.B. CIVIL WRIT PETITION NO. 1199/1995.
(HARI RAM Vs. STATE OF RAJASTHAN & Ors.)

DATE OF ORDER : 14.02.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr.Ranjeet Joshi, for the petitioner.
Mr.B.L. Tiwari, Dy. GA, for the respondent/s.

The petitioner was appointed as a Casual Workman in the work-charge cadre of the Public Health and Engineering Department and was posted in the office of the Assistant Engineer, Sub-Division-II, Sanchore on 10.9.1987.

He was transferred at his own request from Sanchore to District Barmer for certain personal reasons. On transfer, the petitioner was appointed as Casual Labourer in the office of Assistant Engineer, Public Health and Engineering Department, Sub-Division-I, Barmer. The Assistant Engineer, Public Health and Engineering Department, Sub-Division-II, Sanchore also verified services of the petitioner from 10.9.1987 to 20.3.1989 in his office and communicated it to the Assistant Engineer at Barmer.

The respondent Executive Engineer, Public Health and Engineering Department (North Division), Barmer under an order dated 6.5.1993 conferred semi-permanent status of the petitioner w.e.f. 23.09.1989, in accordance with sub-rule (3) of Rule 3 of the Rajasthan Public Works Department (B&R)

including Gardeners, Irrigation, Water Works and Ayurvedic Departments, Work Charged Employees Service Rules, 1964 (for short 'the Rules of 1964' hereinafter). By subsequent order dated 5.4.1995, the Executive Engineer withdrew the semi permanent status conferred upon the petitioner and also regular pay-scale allowed to him as a consequent of conferment of semi permanent status. The Executive Engineer also ordered for effecting recovery from pay of the petitioner for the amount paid said to be in excess. Being aggrieved by the same, this petition for writ is preferred.

It is contended by the counsel for the petitioner that the petitioner, at the first instance, was employed in the office of Assistant Engineer, Public Health and Engineering Department, Sub-Division-II, Sanchore on 10.9.1987 and he remained in service there upto 30.3.1989. Subsequent thereto, at his own request he was appointed by way of transfer as a Casual Labourer in the office of Assistant Engineer, Public Health and Engineering Department, Sub-Division-I, Barmer, as such, the initial date of appointment of the petitioner is nothing but 10.9.1987 and therefore, the Executive Engineer has rightly conferred semi permanent status of the petitioner under the order dated 6.5.1993 w.e.f. 23.9.1989, but withdrew the same erroneously.

Per contra, it is contended by the counsel for the

respondents that the petitioner was employed as a Casual workman in the office of Assistant Engineer, Public Health and Engineering Department, Sub-Division-I, Barmer afresh. Therefore, whatever services rendered by him in the office of Assistant Engineer, Public Health and Engineering Department, Sub-Division-II, Sanchore could not be taken into consideration for the puprose of conferment of semi-permanent status. It is further stated that the semi permanent status under the order dated 6.5.1993 was granted provisionally and therefore, no right was created in favour of the petitioner as a consequent to issuance of the order aforesaid.

Heard learned counsel for the parties.

The petitioner in quite unambigious terms stated in the petition for writ that the date of his initial appointment is 10.9.1987 and thereafter he was appointed in District Barmer by way of transfer at his own request. The fact about the date of initial appointment of the petitioner is not in dispute. It is also an admitted position that the services of the petitioner in the office of Assistant Engineer, Public Health and Engineering Department, Sub-Division-II, Sanchore were verified and was communicated to the Assistant Engineer, Public Health and Engineering Department, Sub-Division (I), Barmer vide communication dated 18.4.1992. The fact that the Assistant Engineer, Public Health and Engineering Department, Sub-Divisiion (I), Barmer got the

services of the petitioner verified in the office of the Assistant Engineer, Public Health and Engineering Department, Sub-Division-II, Sanchore is sufficient to establish the fact that appointment was given to the petitioner in the office of the Assistant Engineer, Sub-Division-I, Barmer by way of transfer in continunity of his earlier services.

While granting semi permanent status to an employee, the date of initial appointment is required to be considered by the competent authority and any change with regard to his place of posting by the administrative order is of no consequence, so far as determination of term of service is concerned.

In view of it, the petition for writ deserves acceptance, the same, therefore, is allowed. The order Annexure-9 dated 5.4.1995 passed by the Executive Officer, Public Health and Engineering Department, Sub-Division (North) Barmer is quashed. The semi permanent status conferred to the petitioner under the order dated 6.5.1993 w.e.f. 23.9.1989 is restored.

No order as to costs.

(GOVIND MATHUR)J.

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